

# **Exhibit 1**

## **Declaration of Rae Lovko**



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December 22, 2023

Etsy, Inc.  
ATTN: Josh Silverman, CEO  
jsilverman@etsy.com  
ATTN: Colin Stretch, Chief Legal Officer  
cstretch@etsy.com  
117 Adams St  
Brooklyn, NY 11201

**RE: Notice of Illegal Mercury Containing Skin Lightening Products Listed on Etsy**

Dear Mr. Silverman:

We are writing on behalf of our client, As You Sow, to inform you that Etsy is listing several mercury-containing skin lightening products on its website that are toxic to consumers and should not be sold in California or in the United States.<sup>1</sup> Etsy bears responsibility for exposures to mercury that result from California sales of these creams on Etsy's website.<sup>2</sup>

**Table 1**, below, lists several creams that are currently being sold on Etsy that contain illegal concentrations of mercury. We also provide the underlying public health alerts and test results that establish that these and other creams contain mercury and are illegal to sell in the United States. We have provided exemplars—sellers on your website offering these creams. We do not suggest that this list of sellers of these particular brands on your website is exhaustive—there may be other sellers today or in the future of these same illegal products. The source does not change the toxicity, and your role should be to prevent consumers from being exposed through transactions involving Etsy. We demand that you remove all listings of skin lightening products containing illegal amounts of mercury from Etsy.com, and take whatever steps are necessary to prevent them from reappearing on your site.

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<sup>1</sup> The U.S. Food and Drug Administration limits mercury content in cosmetics. 21 C.F.R. § 700.13(d)(2) (limit for cosmetics is 1 ppm generally and 65 ppm for “cosmetic intended for use only in the area of the eye”).

<sup>2</sup> Attached to this letter as Exhibit Z is an appellate opinion establishing the liability of on-line marketplaces for violations of California's Proposition 65.

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**Table 1**

<b>Brand</b>	<b>Exemplars</b>	<b>Public Health Warning/Notice Mercury Content</b>	<b>Test Results (ppm)</b>
BeBe Special Cream	Exhibit H– Apsarabazaars	Exhibit CC–Minnesota Department of Health Exhibit DD–FDA Warning Exhibit EE– Mercury Policy Project Report	Exhibit 2–2,700 (sample A2-022) Exhibit CC—11,000 (p. 6)
Carotone	Exhibit I– Mama23store Exhibit J– perfectobeautycouk Exhibit K–Hayveen Exhibit L– QueeNikWealth	Exhibit FF– EU Rapex Warning Reference A12/0088/13 Exhibit EE–Mercury Policy Project Report	Exhibit EE–1.9 (p. 21)
CCM	Exhibit X–Apsarabazaars	Exhibit DD –FDA Warning Exhibit CC—Minnesota Department of Health	Exhibit 5–3,700 (sample A2-029) Exhibit CC—3,940-13,000 ppm (p. 5)
Chandni Whitening Cream	Exhibit C—Diamonds Group	Exhibit BB–New York City Public Health Warning Exhibit DD – FDA Warning Exhibit GG–California Department of Health Warning	Exhibit 7–22,000 (sample A2-035) Exhibit DD – 8,790 (p. 4 Table 1 Row 18)
Crema la Milagrosa	Exhibit M – NATURALbyLLC Exhibit N– bulkmayoreo99	Exhibit GG–California Department of Health Warning	Exhibit 3–4,400 (sample A2-132)
Face Fresh Cream	Exhibit Y–IMinoosh	Exhibit FF–Rapex Alert	Exhibit 6–5,600 (sample 270155-001)

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Faiza <sup>3</sup>	Exhibit A– Nova Jewels Art storefront Exhibit B– BeautyShopIndia Exhibit C– DiamondsGroup Exhibit D– Creations4all786 Exhibit E– WeddingbyASRBoutique Exhibit F– iMinoosh Exhibit G– Cosmeticss4All	Exhibit AA–European Union Rapex Warning Reference A12/0071/13  Exhibit BB–New York City Public Health Warning	Exhibit 1–12,000 (sample MPP-002)
Goree–Day and Night Whitening Cream	Exhibit O– ObserverFinds Exhibit P– PakistanShop2023	Exhibit GG–California Department of Health Warning  Exhibit EE–Mercury Policy Project Report  Exhibit BB–New York City Public Health Warning	Exhibit 4–23,000 (sample A2-026)
Nunn Care	Exhibit S– Menwomengiftshop Exhibit T– Wellnessrootsstore Exhibit U– naturallylifec Exhibit V– TruVaShopTreasures Exhibit W–BotanicaMexicana	Exhibit GG–California Department of Health Warning  Exhibit EE–Mercury Policy Project Report	Exhibit EE–1,500 (p. 6)

**Table 2** below lists products that contain mercury but which we did not locate in our recent search of Etsy’s website. However, we know that there are efforts to sell these products in the United States. Therefore, we encourage you to take measures to ensure that these products are never listed on Etsy.com.

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<sup>3</sup> Etsy has been notified twice about the mercury content in this particular brand of cream: once through a letter dated September 29, 2023 reporting seller MystiqueArtShop, and once through Etsy’s Reporting Portal with the form submitted on September 22, 2023.

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**Table 2**

<b>Products</b>	<b>Public Health Warning/Notice Mercury Content</b>	<b>Test Results</b>
12 Plus Whitening Less Shave	Exhibit CC—Minnesota Department of Health	Exhibit CC—1.2 (p. 16)
88 Total White Underarm Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—11,000 (p. 7)
Aneeza Gold Beauty Face Cream	Exhibit DD—FDA Warning	Exhibit DD—12,400 (p. 2, Table 1 Row 10)
Anti Acne Melasma Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—23,000 (p. 4)
Arche Pearl Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—5.2 (p. 13)
Avocado Night Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—3,730-9,700 (p. 7)
Ba Be Special Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—11,000 (p. 6)
BB Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—4,350 (p. 21)
BBC Creams	Exhibit CC—Minnesota Department of Health	Exhibit CC—9,130 (green); 4,390 (blue); 9 (white) (p. 19)
BB Health & Beauty	Exhibit CC—Minnesota Department of Health	Exhibit CC—54,000 (p. 18)
B.B Special Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—51-96 (p. 11)
Be Be Special Cream CCM/Yellow	Exhibit DD—FDA Warning	Exhibit DD—8,909 (p. 2, Table 1 Row 3)
CCM Classic	Exhibit CC—Minnesota Department of Health	Exhibit CC—3,170 (p. 21)

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CCM Miss Beauty 7 Days White	Exhibit CC—Minnesota Department of Health	Exhibit CC—3,700-7,290 (p. 9)
CCM Naomi 5 Day Special Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—5,400 (p. 20)
CCM Perfect 365 White Cream	Exhibit DD—FDA Warning	Exhibit DD—4,322 (p. 2, Table 1 Row 2)
CCM Perfect 501 White Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—5,810 (p. 20)
CCM Q10 Extra Whitening	Exhibit CC—Minnesota Department of Health	Exhibit CC—4,090 (p. 21)
CCM Special Cream Turmeric	Exhibit DD—FDA Warning	Exhibit DD—8,088 (p. 2, Table 1 Row 1)
CCM V Special Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—4,320 (p. 21)
Cell Repair Placenta Sheep Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—6,460-13,000 (p. 6)
Collagen Plus – Vit E Cream, Night Cream	Exhibit DD—FDA Warning	Exhibit DD—3,670 (p. 3, Table 1 Row 9)
Cream Aghader	Exhibit CC—Minnesota Department of Health	Exhibit CC—135 (p. 22)
Crema Santa	Exhibit BB—New York City Public Health Warning	
Crema Santa Germicida	Exhibit BB—New York City Public Health Warning	
Crème Diana C.T.R	Exhibit CC—Minnesota Department of Health	Exhibit CC—6,370 (p. 20)
Darlene Lightening Star Fruit Soap	Exhibit CC—Minnesota Department of Health	Exhibit CC—1.1 (p. 16)
Deluxe Nadinola Bleaching Cream	Exhibit BB—New York City Public Health Warning	

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Dermaline Beauty Cream	Exhibit BB–New York City Public Health Warning	
Dermaline Skin Cream	Exhibit BB–New York City Public Health Warning	
Dermaline Skin Whitening Cream	Exhibit BB–New York City Public Health Warning	
Diana Cream	Exhibit BB–New York City Public Health Warning	
Doctor Luei Speckle Killer	Exhibit CC–Minnesota Department of Health	Exhibit CC–1.5-2 (p. 15)
Dr. Yanhee Night Cream		Exhibit 8–9,000 (sample A2-098 e.)
Due Beauty Cream	Exhibit BB–New York City Public Health Warning	
Eity Eight – Dewy Face Glow	Exhibit CC–Minnesota Department of Health	Exhibit CC–5 (p. 13)
Face Fresh Beauty Cream	Exhibit BB – New York City Public Health Warning Exhibit DD – FDA Warning	Exhibit D – 18,500 (p. 4, Table 1 Row 22)
Facial Mask Anti-Oxidant and Whitening	Exhibit CC–Minnesota Department of Health	Exhibit CC–17 (p. 12)
Fasco	Exhibit CC—Minnesota Department of Health	Exhibit CC—4,600 (p. 20)
Fo Me Herbal Mask	Exhibit CC–Minnesota Department of Health	Exhibit CC–2 (p. 15)
GCM Whitening Special Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—3,440 (p. 21)
Germicida 200 (soap)	Exhibit BB–New York City Public Health Warning	

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Glutathione Cream White & Bright	Exhibit CC—Minnesota Department of Health	Exhibit CC—20,000 (p. 4)
Golden Pearl Beauty Cream	Exhibit BB—New York City Public Health Warning Exhibit DD – FDA Warning	Exhibit DD – 12,000 (p. 4 Table 1 Row 17)
Hiso Diamond MGT	Exhibit CC—Minnesota Department of Health	Exhibit CC—1.6 (p. 15)
HIYADY Glutathione Cream White & Bright	Exhibit DD—FDA Warning	Exhibit DD—15,900 (p. 3 Table 1 Row 11)
HIYADY Hyaluronic Filler & ULTRA White Night Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—7,400 (p. 8)
Hnub Yiqi – Beauty Day & Night Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—11,999 (p. 6 (night cream))
Hua Shu Li	Exhibit CC—Minnesota Department of Health	Exhibit CC—7,700 (p. 7)
Hynes – La Tia Mana	Exhibit CC—Minnesota Department of Health	Exhibit CC—13,000 (p. 5)
Infocus Professional Pearl Beauty Cream	Exhibit BB—New York City Public Health Warning	
Jabon Germicida Contifarm (soap)	Exhibit BB—New York City Public Health Warning	
Jiaoyan	Exhibit CC—Minnesota Department of Health	Exhibit CC—10,200 (p. 19)
Jiao Li	Exhibit CC—Minnesota Department of Health	Exhibit CC—1,700 (p. 22)
Jing Zhuang Jinyiqi--Day Cream (pink)	Exhibit CC—Minnesota Department of Health	Exhibit CC—1.5 (p. 15)
Jing Zhuang Jinyiqi Whitening Sun Block (red)	Exhibit CC—Minnesota Department of Health	Exhibit CC—8.2 (p. 13)



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Jing Zhuang Jinyiqi Beauty Whitening Set	Exhibit CC—Minnesota Department of Health	Exhibit CC—0.69-20,000 (p. 4)
KA White – Night Serum	Exhibit CC—Minnesota Department of Health	Exhibit CC—3.2 (p.14)
Kanza Beauty Cream	Exhibit BB—New York City Public Health Warning	
Kim Ginseng Cream		Exhibit 9—5,500 (sample A2-027)
Kim Whitening Pearl & Snowlotus Cream	Exhibit DD—FDA Warning	Exhibit DD—47 (p. 47, Table 1 Row 16)
La Tia Mana Crema Limpiadora y Curativa	Exhibit DD—FDA Warning	Exhibit DD—5,432 (p. 2, Table 1 Row 5)
Ling Zhi BB Whitening Cream	Exhibit DD—FDA Warning	Exhibit DD—1,393 (p. 2, Table 1 Row 6)
Lemon Herbal Whitening Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—28,800-33,000 (p. 18)
Lovely Paris Extra Brightening	Exhibit CC—Minnesota Department of Health	Exhibit CC—5,500 (p. 9)
Lulanjina – Yellow Cream and White Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—16,700 (yellow); 12,800 (white) (p. 19)
Madame Organic Set – Whitening Arbutin, Collagen Mask, Pearl Skin, and Sunscreen	Exhibit CC—Minnesota Department of Health	Exhibit CC—18,000 (p. 5)
Maiv Lis (red flower)	Exhibit CC—Minnesota Department of Health	Exhibit CC—14 (p. 12)
Magia Blanca de Michelle Marie Crema Blanqueadora Nufutong	Exhibit BB—New York City Public Health Warning	
McLean – Apricot Scrub	Exhibit CC—Minnesota Department of Health	Exhibit CC—4.7 (p.14)

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McLean – Young and Fresh	Exhibit CC—Minnesota Department of Health	Exhibit CC—2,400 (p. 9)
Meiyong Seaweed Super Whitening – Extra Whitening & Face Lift	Exhibit CC—Minnesota Department of Health	Exhibit 10—21,000 (sample 263906-004) Exhibit CC—30,000 (p. 3)
Mild Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—1,630 (p. 22)
Milk Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—1,700-4,500 (p. 10)
Miss Key Crema Blanqueadora	Exhibit BB—New York City Public Health Warning	
Monsepa Express Peeling	Exhibit CC—Minnesota Department of Health Exhibit DD – FDA Warning	Exhibit CC—30,000 (p. 3) Exhibit DD – 5,030 (p. 4, Table 1 Row 21)
Monsepa II	Exhibit CC—Minnesota Department of Health	Exhibit CC—38,000 (p. 3)
MSII Express Peeling Pearl Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—38,000 (p. 3)
Natural Cream Night Cream Skin Care	Exhibit CC—Minnesota Department of Health	Exhibit CC—2,200 (p. 10)
Niuma Medicated Antiseptic Soap	Exhibit BB—New York City Public Health Warning	
Niuma Lemon Medicated Germicidal Soap	Exhibit BB—New York City Public Health Warning	
(No English Product Name)	Exhibit CC—Minnesota Department of Health	Exhibit CC—1.6-2.2 (p. 14)
(No English Product Name)	Exhibit CC—Minnesota Department of Health	Exhibit CC—1,600 (p. 22)

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Nufutong	Exhibit BB – New York City Public Health Warning	
OK Brand	Exhibit CC–Minnesota Department of Health	Exhibit CC–1,600-1,860 (p. 10)
Pearl Cream	Exhibit CC–Minnesota Department of Health	Exhibit CC–3.6 (p. 14)
Polla Anti-Acne Cream	Exhibit CC–Minnesota Department of Health	Exhibit CC–3,300 (p. 9)
Polla Gold – Super White Perfects	Exhibit CC—Minnesota Department of Health	Exhibit CC—12,000 (p. 6)
Pomada Salva-Vida (balm)	Exhibit BB—New York City Public Health Warning	
Pomegranate Whitening Set “Queenly Girl”	Exhibit CC—Minnesota Department of Health	Exhibit CC—0.53-29,000 (p. 4)
Popieu Turmeric Facial Cream	Exhibit CC–Minnesota Department of Health	Exhibit CC–420 (p. 11)
Prime White	Exhibit CC—Minnesota Department of Health	Exhibit CC—9,590 (p. 19)
Promina Ginseng Pearl Cream	Exhibit CC–Minnesota Department of Health	Exhibit CC–29 (p. 11)
Qian Li	Exhibit CC—Minnesota Department of Health	Exhibit CC—9,300 (p. 7)
Qian MEI yellow and white jars	Exhibit CC–Minnesota Department of Health	Exhibit CC–6.4-4,650 (p. 12)
Recetas de la Farmacia Normal – Crema Blanqueadora	Exhibit BB–New York City Public Health Warning	
Rice Milk Whitening Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—7,470-35,000 (p. 3)
Rice Milk Whitening Cream – Lighten Skin	Exhibit CC—Minnesota Department of Health	Exhibit CC—7,600 (p. 8)

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Rojzy Jiali	Exhibit CC—Minnesota Department of Health	Exhibit CC—2,230 (p. 21)
Sandal Whitening Beauty Cream	Exhibit BB—New York City Public Health Warning Exhibit DD – FDA Warning	Exhibit DD – 5,030 (p. 4 Table 1 Row 20)
Savor Pour L’acne – Diana Soap	Exhibit CC—Minnesota Department of Health	Exhibit CC—31 (p. 20)
Seaweed Cream	Exhibit CC—Minnesota Department of Health	Exhibit 6—2,000 (sample 270155-001)
Seven Herbal Ubtan Cream	Exhibit BB—New York City Public Health Warning	
Silky Cool Extra	Exhibit CC—Minnesota Department of Health	Exhibit CC—7 (p. 13)
Skin care & Cosmetic MSII Whitening Peeling	Exhibit DD—FDA Warning	Exhibit DD—1,581 (p. 3, Table 1 Row 7)
Skin care & Cosmetic Express Peeling	Exhibit DD—FDA Warning	Exhibit DD—5,797 (p. 3, Table 1 Row 8)
Snow White Armpit Whitening Underarm Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—6,700 (p. 8)
Specail Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—800 (p. 11)
Stillman’s Freckle Cream	Exhibit BB—New York City Public Health Warning	
Stillman’s Skin Beach Cream	Exhibit BB—New York City Public Health Warning	
Super Gold Caviar Whitening Cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—5,700 (p. 8)
(Unlabeled Container) – packaged with soap and anti-fungal cream	Exhibit CC—Minnesota Department of Health	Exhibit CC—9,950 (p. 19)

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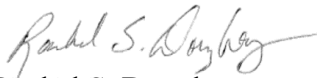
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(Unmarked Jar with Rose Design)	Exhibit CC—Minnesota Department of Health	Exhibit CC—1,300 (p. 10)
Whitening Cream (Black Box with flowers)	Exhibit CC—Minnesota Department of Health	Exhibit CC—17,000 (p. 5)
Whitening Cream (Black Box with Model)	Exhibit CC—Minnesota Department of Health	Exhibit CC—22,000 (p. 18)
Yoko Yogurt Milky Body	Exhibit CC—Minnesota Department of Health	Exhibit CC—9.3 (p. 12)
Zuni Beyoutiful Beauty Cream	Exhibit BB—New York City Public Health Warning	

As You Sow intends to take formal enforcement action if the products listed in the Exhibits referenced above are not permanently removed from Esty's online platform, or when and if these products are listed in the future. We appreciate your prompt attention to this significant public health matter.

Sincerely,



Rachel S. Doughty

Counsel for As You Sow